



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/022,996

12/17/2001

Joseph R. Callol

ACS 57812

4121

24201 7590 03/02/2010  
FULWIDER PATTON LLP  
HOWARD HUGHES CENTER  
6060 CENTER DRIVE, TENTH FLOOR  
LOS ANGELES, CA 90045

EXAMINER

SEVERSON, RYAN J

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

03/02/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/022,996	<b>Applicant(s)</b> CALLOL ET AL.	
	<b>Examiner</b> Ryan J. Severson	<b>Art Unit</b> 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 8, 9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (6,099,497) in view of Webster et al. (WO 00/27463).** Adams et al. disclose a method for treating a proximal portion of a main vessel and the opening of a side branch vessel comprising providing a stent (see figure 9) surrounding a pair of balloons, where the balloons can be of a different length (see figure 17), advancing the balloons and stent to the site of the bifurcation, inflating the balloons to deploy the stent, and deflating the balloons to withdraw the catheter. However, Adams et al. fail to disclose no portion of the stent is disposed distal to the opening of the branch vessel. Attention is drawn to Webster et al., who teaches the use of a stent for a bifurcation (see figure 1c) that does not extend distally beyond the opening when deployed (see figure 2d). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured the stent of Adams et al. such that it does not extend distal to the opening in the manner taught by Webster et al. Such a modification is merely simple substitution of one known element for another to obtain predictable results. *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396.

***Response to Arguments***

3. Applicant's arguments filed 1/4/2010 have been fully considered but they are not persuasive.

4. Applicant argues the two references teach very different methods, and are thus not combinable. However, the combination is made to show that the balloon catheter structure of Adams et al. can be used to treat differently structured bifurcated vessel locations, such as the location shown in Webster et al. using the stent of Webster et al..

5. Applicant argues the claims "unequivocally call for the two balloons to be positioned side-by-side adjacent the stents distal end" whereas the Adams et al. reference shows the balloons positioned side-by-side at their proximal ends. However, Examiner takes the position that those two notions are not comparable. The claims require the balloons positioned side-by-side adjacent the distal end ***of the stent***. The claim makes no mention of a requirement of the distal ends of each balloon to be longitudinally aligned with one another. The fact that the proximal ends of the side-by-side balloons of Adams et al. are longitudinally aligned and the distal end of the short balloon terminates before the distal end of the long balloon terminates does not prevent the device *of the combination* from having ***the distal end of the stent*** (of Webster et al.) positioned about the side-by-side balloons (of Adams et al.). To clarify, if the two balloons of Adams et al. are positioned within the stent of Webster et al. with each balloon passing through the distal openings of the stent similar to what is shown in figure 3b(iii) of Webster, the distal end of the stent would be positioned adjacent to each of the side-by-side balloons.

Art Unit: 3731

6. Applicant also argues the stent of Webster et al. is not capable of contacting the opening of the side branch vessel. However, comparing figures 2c and 2d of Webster et al. shows that this argument is clearly wrong. Figure 2c shows the distal portion of the stent before it is expanded to contact the opening of the branch vessel, and figure 2d shows the distal portion of the stent expanded to contact the opening of the branch vessel.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan J. Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

Art Unit: 3731

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan J. Severson/  
Examiner, Art Unit 3731  
2/24/10

/Anhtuan T. Nguyen/  
Supervisory Patent Examiner, Art Unit 3731  
3/1/10